

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Raymond Edward Chestnut, #13465-) C/A No.: 1:12-475-RBH-SVH
171,)
)
Petitioner,)
)
vs.)
)
Warden Darlene Drew,)
)
Respondent.)
)

ORDER

This is an action seeking habeas corpus relief under 28 U.S.C. § 2241. Petitioner is a prisoner. Therefore, in the event that a limitations issue arises, Petitioner shall have the benefit of the holding in *Houston v. Lack*, 487 U.S. 266 (1988) (prisoner's pleading was filed at the moment of delivery to prison authorities for forwarding to District Court). Under Local Civil Rule 73.02(B)(2) (D.S.C.), pretrial proceedings in this action have been referred to the assigned United States Magistrate Judge.

By order issued on March 5, 2012 [Entry #6], Petitioner was given a specific time frame in which to bring this case into proper form. Petitioner has complied with the court's order, and this case is now in proper form.

PAYMENT OF THE FILING FEE:

Petitioner has requested to proceed without prepaying the filing fee by filing an Application to Proceed without Prepayment of Fees and Affidavit (Form AO-240), which is construed as a Motion for Leave to Proceed *in forma pauperis*. [Entry #8]. Based on a review of the motion, Petitioner's Motion for Leave to Proceed *in forma pauperis* is granted.

TO THE CLERK OF COURT:

A prisoner's custodian is the proper respondent in a habeas corpus action. *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004). Therefore, the Clerk of Court is directed to terminate the United States of America as a respondent in this case.

The Clerk of Court shall not serve the § 2241 petition upon respondent because the petition is subject to dismissal.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Shiva V. Hodges".

April 24, 2012
Columbia, South Carolina

Shiva V. Hodges
United States Magistrate Judge